

REMARKS

The allowability of claim 5 is noted with appreciation. Claim 5 has been re-written in independent form as newly added claim 10 having all the limitations of the base claim and intervening claims.

Claims 1-3 have been rejected under 35 U.S.C. 102(b) as being anticipated by Brudi et. al., (U.S. 3,865,265). Brudi et. al. concerns an accessory add-on device for the mast of a lift truck to indicate the degree of tilt of the mast. It comprises a gravity sensing tilt indicator mounted on the mast that generates an electrical signal, and tilt display means mounted upon the main body of the truck to receive said signal and convert it to visual indicia.

By way of contrast, Applicant's invention concerns an entirely mechanical device of integral construction mounted upon the mast. There are no electrical components.

The Examiner is specifically in error in the following comparison:

a) "-- an elongated activating arm (26) secured to the upper extremity of said pendulum --". In reality, item 26 is not an activating arm. It is a flexible electrical cable that connects the bottom of housing 24 to the bottom of the display device 28.

b) "-- a sliding member (28b) moveable by said activating arm --"

Item 28b is described as an electrical meter (Col. 7, l. 64). It is stationary. It does not slide.

c) "-- a straight track means -- engaging said sliding member --"

There is no straight track means.

- d) "-- said sliding member is constrained to reciprocating linear movement --"

This is non-existent in Brudi et. al.

Claims 1-4 and 6-9 have been rejected under 35 U.S.C. 102(b) as being anticipated by Haynie (U.S. 3,800,425).

Haynie concerns a device for use with the boom of a crane. It employs a pendulum having a pointer that interacts with a circularly curved angle-indicating scale of indicia. It is important to note that the range of tilt angles involved with the boom of a crane is considerably different than the range of tilt angles involved with a forklift truck. In a forklift truck, the mast is typically in a vertical position. Only minor adjustments of the angle of the mast are made when warranted by unusual circumstances. This is not the case with the boom of a crane, which is never operated in the vertical position because the item being lifted by the crane would hit the crane. Accordingly, the boom of a crane is always at a sharply acute angle relative to horizontal.

Whereas Haynie's angle-indicating device may work well on the boom of a crane, it would not work well on the mast of a forklift truck where more precise measurements are needed within a smaller displacement range.

Applicant's angle-measuring device involves an elongated activating arm which produces reciprocating linear motion of a sliding member. The amount of linear movement of said sliding member (and associated pointer) is dependent upon both the angular movement of the pendulum and the length of the activating arm. For

example, a doubling of the length of the activating arm doubles the distance of linear pointer movement for the same angular displacement of the pendulum. Such arrangement and interaction of components produces an accuracy of measurement of mast tilt that is unachievable by Haynie. Contrary to the Examiner's assertion, Haynie does not provide any means for slideably coupling the movement of the pendulum to movement of the pointer means.

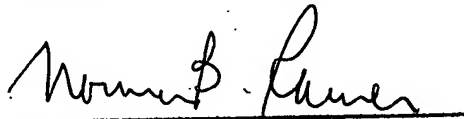
Applicant's invention, which successfully achieves certain specialized objectives, embodies an unobvious combination of several principles in a manner to produce unexpectedly improved results. For the Examiner to arbitrarily select features from references to attempt to reconstruct Applicant's invention is tantamount to a critical selection of inventive import, and does not appear to be proper basis for denial of patent rights. Even so, the Examiner has not found the several features or principles of Applicant's invention in the cited art references. Instead, the Examiner implies that, although Applicant's invention cannot be pieced together from features taken directly from the prior art, it would be obvious to modify said features or arbitrarily add needed features to conform with Applicant's invention. Applicant respectfully traverses this implication, particularly because the cited references do not involve the objectives, construction or advantages of the apparatus of the instant invention.

In view of the foregoing discussion, removal of the rejections based upon 35 U.S.C. 102 (b) would appear to be in order, and is respectfully requested.

Applicant's claims are narrowly drawn, fully supported by his specification, and unanticipated by the prior art. It is believed

that, for the reasons presented herein, all claims (Claims 1-4, 6-10) are now in condition for allowance. Accordingly, re-examination, reconsideration, and early allowance of said claims is earnestly solicited.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Norman B. Rainer", written over a horizontal line.

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